

**RESPONSE AFTER FINAL REJECTION
EXPEDITED PROCEDURE - RULE 116**

Application No.: 10/705,992
Attorney Ref: 62017.US
Client Ref: EI-7594

REMARKS

The rejections of the present Office Action are respectfully traversed and favorable reconsideration is requested in view of the following remarks.

REJECTIONS UNDER § 103

Claims 35-51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,880,073 to Tomizawa et al. ("Tomizawa"). Independent claim 35 defines, *inter alia*, a method of measuring friction performance of a power transmission fluid using an LFW-1 test apparatus including applying a first power transmission fluid between a block and a ring of an LFW-1 test apparatus and rotating the ring relative to the block from a velocity of about 0 m/s to about 0.5 m/s in about 40 seconds at a constant rate of acceleration and then rotating the ring relative to the block from a velocity of about 0.5 m/s to about 0 m/s at a constant rate of deceleration to provide a cycle. Friction between the block and ring is measured during the cycle.

Tomizawa discloses using a LFW-1 test apparatus; however, the test method is completely different from the presently claimed method. In particular, Tomizawa discloses 270 revolutions per minute for 10 minutes. Basically, Tomizawa teaches to turn on the LFW-1 test apparatus, rotate the ring relative to the block for ten minutes at 270 rpm, and then turn off the LFW-1 test apparatus. A single coefficient of friction measurement is derived.

Nothing in Tomizawa discloses, suggests, or points to a cycle or measuring friction during such a cycle as defined in claim 35. In the present claims, friction may be measured not only at different times but also at different speeds – i.e., between 0 and 0.5 m/s and between 0.5 and 0 m/s, during a cycle. This is not contemplated, taught, or disclosed in Tomizawa. The only way for one of skill in the art reading Tomizawa to arrive at the present method of measuring friction performance is by impermissible hindsight.

The present claims define a novel, nonobvious test method that provides an unexpected benefit over the disclosure in Tomizawa. The presently claimed method measures friction at

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speeds from about 0 to about 0.5 m/s and from about 0.5 to 0 m/s during a 40 second cycle, and the process may be repeated many times. This is supported in the Examples and in Figures 1-3 which show many friction measurements taken over various speeds. Therefore, the LFW-1 apparatus may be used in a novel and nonobvious way to provide static friction and dynamic friction measurements. Further, the ratio of static to dynamic friction may be determined. (Support may be found throughout the specification, for example, throughout the Examples 1-4 and the Figures). The process disclosed in Tomizawa would not teach one of skill in the art anything about such measurements or resulting calculations. Thus, the presently claimed method is both novel and nonobvious and provides a clear advantage over the cited reference

Accordingly, the method of measuring friction performance of the present claims is significantly different from the procedure of Tomizawa. The only actual common feature between the cited reference and the present application is the use of the LFW-1 test apparatus. .

Claims 36-51 depend from claim 35 and add important features and limitations to the presently claimed invention. Claims 36-51 are likewise patentable over Tomizawa. Reconsideration and allowance of claims 35-51 is hereby respectfully requested.

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CONCLUSION

In view of the foregoing remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

The undersigned believes that there are no fees associated with this filing. However, if the calculations are incorrect, the Commissioner is hereby authorized to charge any deficiencies in fees or credit any overpayment associated with this communication to Deposit Account No. 12-2355. Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 12-2355.

Respectfully submitted,

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